

## **Minutes of Regular Meeting of April 9, 2013**

### **REGULAR MEETING**

**CALL TO ORDER 7:35 P.M.**

### **ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Braunstein, Warden, Wozniak

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Rennie, Police Chief DeSmidt, Fire Chief Fry, Community Development Director de Melo, Finance Director Fil, Deputy Finance Director Lazzari, Human Resources Director Dino, Public Works Director Oskoui, Parks and Recreation Director Gervais, City Treasurer Violet, Deputy City Clerk Plut

### **PLEDGE OF ALLEGIANCE**

Led by Mayor Wozniak

### **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Kathleen Beasley**, Belmont Library Manager, stated that the Belmont Library is celebrating its seventh anniversary. She outlined upcoming events and classes to be held at the Library.

### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Warden reported that he was a judge at a recent Teen Film Festival held at the Library. He commented on the high quality of entries, and stated he would share the DVD of the winning entry with the City Council.

Mayor Wozniak announced that she recently attended a Girl Scout Gold Awards ceremony, and she complimented the young ladies for the outstanding service projects they performed in order to achieve their Gold Award.

Councilmember Braunstein reported that he and Councilmember Feierbach attended a neighborhood meeting on Valley View Way to address residents' concerns regarding a recent rash of burglaries in the neighborhood.

Councilmember Feierbach announced that she met recently with officials from Crystal Springs Uplands School (CSUS) to ask them to reconsider their decision to locate on Davis Drive due to the fact that the property might be acquired at a lower price. She noted that there is potential for housing to be proposed for that site, which she would not support.

Councilmember Braunstein stated that the newly-formed Four Corners Traffic Ad Hoc Committee would be meeting soon. He requested an opportunity for the City Council to have a dialog about what the City's objectives would be for this committee. Mayor Wozniak suggested that this be discussed immediately following the Consent Agenda.

### **AGENDA AMENDMENTS**

Councilmember Braunstein requested the removal of Consent Item F (Resolution Authorizing Solicitation of Bids and Award of Contract for Renovation of the Twin Pines Senior and Community Center and Amendment to the FY 2013 Budget for a Supplemental Appropriation) for separate consideration.

#### **ITEMS APPROVED ON CONSENT CALENDAR**

**Approval of** Minutes of the Regular City Council and Regular Belmont Fire Protection District Meeting of February 26, 2013, and Minutes of the Special City Council Meetings (Commission Interviews) of February 28 and March 7, 2013

**Motion to accept** Monthly Financial Reports

**Approval of** Resolution 2013-034 of the City Council Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder, Approving a Ten Percent Construction Contingency, and Authorizing the City Manager to Execute a Contract for the 2013 Chip Seal and Slurry Seal Project, City Contract Number 2013-518

**Approval of** Resolution 2013-035 of the City Council Accepting Work and Authorizing the Issuance of a Notice of Substantial Completion for the Ralston Avenue Bikeway Overcrossing Project, City Contract Number 433 for a Final Contract Cost of \$6,061,037.94

**Approval of** Resolution 2013-036 of the City Council Approving a Purchase Order for Thermoplastic Striping for Road Markings at Various Locations City-wide for an Amount not to Exceed \$25,000

**Approval of** Resolution 2013-037 of the City Council Authorizing Solicitation of Bids and Award of Contract for Resolution of the City Council Approving a Permanent Encroachment Agreement to Allow Privately Maintained Retaining Walls within the Public Right-of-Way at 2847 San Juan Boulevard (APN-043-322-270)

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Warden the Consent Calendar was unanimously approved as amended, by a show of hands.

#### **ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

**Resolution of the City Council Authorizing Solicitation of Bids and Award of Contract for Renovation of the Twin Pines Senior and Community Center and Amendment to the FY 2013 Budget for a Supplemental Appropriation**

In Response to Councilmember Braunstein, Parks and Recreation Director Gervais stated that there is approximately five years of life remaining in the roof, and some patching needs to be performed in the meantime. He noted that staff will seek grant funding for restroom remodeling. He clarified that it is unlikely that grant monies would be available for the roof repair as that is a deferred maintenance project and not an upgrade.

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Wozniak, Resolution 2013-038 of the City Council Authorizing Solicitation of Bids and Award of Contract for Renovation of the Twin Pines Senior and Community Center and Amendment to the FY 2013 Budget for a Supplemental Appropriation was unanimously approved by a show of hands.

**COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS (Item out of Order on Agenda)**

### **Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Mayor Wozniak stated that this item would be taken out of order so that the City Council could discuss their objectives of for the Four Corners Traffic Ad Hoc Committee.

Councilmember Braunstein advised that Carlmont High School and the Tierra Linda Middle School campuses would each be expanding to accommodate approximately 400 more students. He requested clarification regarding whether the goal of the Ad Hoc Committee was to improve existing traffic issues or prepare for future traffic issues. He also noted that there may be a proposal to add an exit lane from the Tierra Linda campus onto Alameda de las Pulgas.

City Manager Scoles cautioned that this matter is not on the agenda for discussion. He explained that two members of the City Council were appointed to this Ad Hoc Committee for the purpose of representing the City of Belmont's interests on any options discussed by the committee.

Councilmember Warden stated that there are competing interests among the entities involved in this matter. He suggested that the committee members collect data that is presented at the Ad Hoc meetings and bring that back to the City Council for discussion and direction.

Mayor Wozniak stated that it was her understanding that the purpose of the Four Corners Committee was to formulate the scope of the traffic study, and that it might provide analysis of the results of that study in the future.

City Manager Scoles stated that staff would work with the two City Council appointees to this committee to determine an appropriate meeting date for updating the full Council regarding the Ad Hoc committee's work.

City Attorney Rennie stated that he has discussed this issue with the city attorney for the City of San Carlos and it was determined that the Ad Hoc Committee meetings should be publicly noticed as Brown Act meetings in order to allow for more discussion than simply data-gathering.

### **OTHER BUSINESS**

#### **Consideration of a Sewer Lateral Program and Introduction of an Ordinance Implementing the Program**

Public Works Director Oskoui reviewed the discussions regarding this proposed program at previous City Council meetings. He expressed the need to address inflow and infiltration (I and I) issues related to private sewer laterals. He pointed out that the proposed ordinance includes a requirement to have the sewer lateral tested at point of sale, to which the real estate industry has raised concerns. He indicated that the City Council requested additional data regarding the level of problems of I and I associated with the laterals.

Public Works Director Oskoui explained that despite the City's efforts with regard to repair and maintenance on the sewer system, wet weather flows during heavy rains still remain an issue due to I and I from private sewer laterals. He provided dry and wet weather flow data from the various sewer basins throughout the City, and outlined the additional treatment costs associated with the

high volume of flow to the treatment plant. He pointed out that approximately 50 percent of I and I is directly related to laterals. He explained that addressing problems with sewer laterals would reduce wet weather flow and reduce the cost to the City and to the rate payers.

Public Works Director Oskoui outlined the call volume associated with sewer backups, and noted that 45 percent of those calls are related to a problem with the lateral. He noted that the City experienced approximately three sewer overflow incidents during the recent winter, and clarified that City staff was able to contain those overflows, or they were diluted with rain water and did not pose an environmental risk.

Public Works Director Oskoui described some of the more restrictive testing required in other cities in the Bay Area, and confirmed that many of those jurisdictions have had consent decrees issued due to sewer overflows to the Bay.

Public Works Director Oskoui outlined the options for the City Council to consider regarding the point-of-sale inspection requirement. He noted that the other programs would continue, including smoke testing, the FOG program (fats, oils, grease), community education, and video inspection. He suggested that the City Council also include an inspection requirement when a building permit issued for certain improvements.

In response to Council questions, Public Works Director Oskoui explained that based on the smoke testing program, approximately 20 percent of single family homes have some problems with their sewer lateral. He also noted that smoke testing identifies approximately 85 percent of those problems, which range from missing cleanout caps to complete failure of the lateral. He described the outreach program that staff would perform should the point of sale requirement be implemented.

**Paul Stewart**, SAMCAR (San Mateo County Association of Realtors), clarified that all of the cities outlined by staff that have mandatory point of sale inspection requirements implemented those requirements due to litigation. He stated that SAMCAR supports all components of the proposed sewer lateral program with the exception of point of sale inspection. He noted that SAMCAR has provided the City Council with a draft real estate disclosure document regarding sewer laterals.

In response to Councilmember Feierbach, Mr. Stewart clarified that any problem with the sewer lateral identified by smoke testing or video testing would be a private negotiating point between the buyer and seller of the property.

Also in response to Councilmember Feierbach, Public Works Director Oskoui explained that of the 4,000 parcels that were smoke tested in 2010, approximately 30 to 50 enforcement cases are still outstanding.

**Rosemary Dinelli**, Belmont resident, expressed concern that most citizens are unaware that the City Council was considering this matter, and she is also concerned regarding the added financial burden on the homeowner. She suggested that this issue be put to a vote of the people.

**Gary Hardey**, Belmont resident, requested clarification regarding how many homes have been identified as having sewer problems at the \$50,000 remodel threshold. He agreed with the previous speaker's suggestion about asking the voters.

Public Works Director Oskoui explained that the \$50,000 threshold was a proposal at this time and there is no data to provide.

**Perry Kennan**, Belmont resident, expressed support for the point of sale inspection requirement as a way to protect the buyer. He recommended that the City Council direct the Finance Commission to address the issue of infiltration into the sewer mains.

**Rosalie McCloud** expressed support for the use of a real estate disclosure form. She pointed out that lenders will not allow escrow to close if an inspection has detected a problem that needs to be corrected, and that buyers with little money down utilizing FHA loans will not have the money in 180 days to fix the problem.

Councilmember Warden expressed support for requiring a disclosure form in the real estate transaction. He does not support requiring a sewer lateral inspection for remodel jobs at the \$50,000 threshold. He pointed out that many homeowners who have problems with their laterals are likely aware of the problem. He expressed concerns that smoke testing on properties that have backflow preventers will not accurately identify potential problems.

Councilmember Lieberman expressed support for requiring a real estate disclosure form. He pointed out that home buyers are not likely to be aware of the owner's responsibility for the sewer lateral. He expressed support for requiring an inspection in connection with a home remodel project at some level of threshold.

Councilmember Braunstein stated that he has always supported a point of sale inspection requirement as a tool for consumer protection. He expressed concern regarding the volume of disclosure forms that are used in real estate transactions, which tend to get overlooked. He described the experiences in other cities with mandatory inspection programs, and that many of those inspections have resulted in problems being detected. He commented that the smoke testing program is effective and should continue. He stated that due to concerns expressed by the public, he would be willing to consider Option B (real estate disclosure without inspection) and to raise the threshold at which an inspection would be required when remodeling.

Councilmember Feierbach expressed support for requiring an inspection for remodeling projects at the \$100,000 threshold.

Mayor Wozniak stated that she originally supported Option 3 (inspection and requirement to repair within 180 days of close of escrow). She clarified that she understands the concerns that

lenders would have an issue which could jeopardize the close of escrow, and therefore she could support Option 2 (real estate disclosure without inspection).

Discussion ensued regarding the dollar threshold of a project requiring inspection, and the mechanism for the real estate disclosure form.

Councilmember Warden commented that it is likely that the disclosure form will be reviewed by the potential buyer.

Councilmember Lieberman stated that any action taken by the City Council on this issue will be more aggressive in further identifying problems with sewer laterals.

**ACTION:** Councilmember Lieberman made a motion, seconded by Councilmember Braunstein, to introduce an Ordinance Implementing a Sewer Lateral Program, to include the requirement for a real estate disclosure form referencing the responsibility of the sewer lateral, and to require lateral inspection for remodeling projects exceeding \$100,000 in value or when a change of water service is made.

**ACTION:** Councilmember Warden made a substitute motion, seconded by Councilmember Lieberman, and unanimously approved by a show of hands to introduce an Ordinance Implementing a Sewer Lateral Program, to include the requirement for a real estate disclosure form referencing the responsibility of the sewer lateral, and to set the remodeling threshold at \$200,000 or when a change of water service is made.

**RECESS: 9:15 P.M.**  
**RECONVENE: 9:25 P.M.**

**Budget Strategic Planning and Review of City Council Priority Work Plan for FY 2013/2014**  
Finance Director Fil provided a recap of the mid-year budget status and noted that expenditures are on track to provide for a favorable ending balance for the current fiscal year. He outlined the factors that were utilized to prepare for the 2014 fiscal year budget, including demographic data, median home prices, and unemployment statistics. He stated that PERS rates and costs are likely to increase, and the Governor's proposed school funding proposal could negatively impact the City. He outlined the seven-year fund balances and projections.

Parks and Recreation Director Gervais expressed the need to develop a facilities management and capital improvement plan for city-owned properties and other assets. He pointed out that staff is developing a baseline of needs for future planning and resource prioritization, and he outlined the need to manage the City's assets by reinvesting in order to maintain their life. He suggested that the City Council may wish to review assets and determine if there are some that are not needed or wanted any longer.

Public Works Director Oskoui explained that a formula exists for evaluating the condition of streets, and resource allocation will depend on the level of service desired by the community.

Finance Director Fil described the three methods of funding which include pay-as-you-go, debt financing, and identification of new revenue sources, and he clarified that each method will yield varying levels of revenue. He clarified that revenues from new development alone will not solve the problem, and there are limits to development impact fees that can be levied.

Parks and Recreation Director Gervais stated that further analysis is needed to identify existing revenue sources that can be used for capital management, and to identify where gaps exist.

City Manager Scoles outlined projects that were accomplished during the previous year, including improvements to the Cipriani Dog Park, as well as adoption of ordinances banning the use of polystyrene food ware and single-use plastic bags. He described active projects and initiatives. He explained that two new proposed priorities include determining the disposition of unspent Redevelopment Agency (RDA) bond proceeds, and addressing capital financing for sewers, storm, streets, facilities, and parks.

Finance Director Fil clarified that State law provides that the former RDA bond proceeds can be used for their original intended purpose, with review and approval by the Oversight Board as well as the State.

Mayor Wozniak stated that her priority would be to determine financing alternatives for capital improvements.

In response to Councilmember Feierbach, Finance Director Fil explained that a clearance letter from the Department of Finance would be required to approve the expenditure of non-housing assets. He clarified that the Department of Finance has already approved the City's housing assets.

Councilmember Feierbach expressed her desire to modify the noise ordinance to place restrictions on the hours permitted for the use of leaf blowers in commercial areas on the weekend. Mayor Wozniak stated that there may be other parts of the noise ordinance that may need to be adjusted.

Councilmember Feierbach concurred with the other priority items as presented, and stated that the use of redevelopment monies is important.

Discussion ensued regarding the Redevelopment Agency bond debt. Finance Director Fil clarified that debt is paid from the difference in the tax increment, which is accounted for on the Recognized Obligation Payment Schedule (ROPS) approved by the City Council. He also clarified that State law permits the use of bond proceeds for their intended purposes, and that if the City is unable to do so, the proceeds can be used to retire the debt.

Councilmember Braunstein stated that his capital project priorities include ongoing bike bridge maintenance, street lighting, roads, crosswalks, storm drains, library maintenance, fire station improvements, collection systems, Barrett Community Center, and solar projects. He pointed out that much attention is needed to address issues at Barrett. He expressed support for the approach being proposed by staff regarding this issue, and his desire to invest in the City's assets. He also concurred that the use of remaining bond proceeds should be included on the priority list.

Councilmember Feierbach expressed a desire to demolish the Creekside Pottery building in Twin Pines Park.

Parks and Recreation Director Gervais pointed out that the Parks and Recreation Commission has begun discussions regarding the future of the Barrett Community Center.

Councilmember Warden expressed concerns regarding setting expectations for improvements to Barrett without identifying a funding source. In response to his question regarding increased taxes as a result of an improved economy, Finance Director Fil clarified that very little of those monies are earmarked for capital. He noted that in some cases, one-time monies can be set aside for non-recurring costs. Councilmember Warden suggested creating a policy for earmarking some percentage of new revenues for infrastructure improvements or other capital needs. He expressed support for pursuing a nonprofit Parks Foundation, and stated this would be a priority over Barrett.

Discussion ensued regarding the mechanism for forming a Parks Foundation. Parks and Recreation Director Gervais explained how the City of San Carlos got theirs started, and he noted that the City was initially involved. Councilmember Lieberman pointed out that some candidates for City commissions had experience in fundraising and might be interested in being involved.

Discussion ensued regarding the proposed ordinance governing large family day care facilities. Councilmember Lieberman expressed concern that there has been no progress on moving this item forward, and he noted that the City Council had a number of discussions regarding this matter. Councilmember Warden pointed out that it is likely that other projects have taken priority. City Attorney Rennie clarified that these facilities are heavily regulated by the State and the City is limited in what it can regulate.

Councilmember Lieberman pointed out that the priority calendar indicates that this matter was scheduled for completion in the spring of 2013.

Council concurred to leave this item on the priority list.

**Perry Kennan**, Belmont resident, suggested that a copy of the current year's budget be made available at the Belmont library. He expressed concerns regarding the condition of the roads and suggested that monies be allocated to improving streets. He commented regarding the impact of bus traffic on pavement. He pointed out that gas-powered leaf blowers are not allowed in some cities.

**ACTION:** On a motion by Councilmember Warden, seconded by Mayor Wozniak, and unanimously approved by a show of hands to accept the 2014 Priority Calendar Work Plan as presented, with the addition of 1) consideration of use of Redevelopment Agency Funds, 2) recommendations for options regarding capital improving program funding, 3) modifications to the noise ordinance relative to leaf blowers, and 4) moving the Parks Foundation to "above the line".

### **Informational Report Regarding the Pavement Management Program and Overall Condition of Streets in Belmont**

Continued to April 23 Regular Council meeting.



**COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS (continued from earlier)**

**Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Warden stated that at the South Bayside Waste Management Authority's (SBWMA) Blue Ribbon Committee meeting, the members concurred that the SBWMA Board members should be elected officials.

**Verbal Report from City Manager**

City Manager Scoles announced the Earth Day activities scheduled for April 20<sup>th</sup>, and that the ban on single-use plastic bags goes into effect on April 22<sup>nd</sup>. He noted that the City of Belmont is participating in the County-wide enforcement effort related to texting and driving. He stated that a Ralston Avenue Corridor Study session would be held on April 18<sup>th</sup>. He noted that he and Councilmember Braunstein would be attending an Emergency Services Council meeting that same day wherein the new Hazmat contract would be presented for approval.

**Discussion and Direction Regarding Proposed Amendments to the League of California Cities Bylaws and Authorization for Mayor to Sign the Ballot**

City Manager Scoles suggested that the City Council authorize the Mayor to sign the ballot on proposed changes to the League of California Cities Bylaws.

By a show of hands, Council concurred to authorize the Mayor to sign the ballot on behalf of the City of Belmont.

**MEETING EXTENSION**: at this time, being 10:30 P.M., on a motion by Mayor Wozniak seconded by Councilmember Braunstein, the meeting was extended by 30 minutes (3-2, Warden, Feierbach no).

**PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Perry Kennan**, Belmont resident, commented regarding the SBWMA Blue Ribbon Committee, and he thanked Councilmember Warden for taking an active role.

**ADJOURNMENT** at this time, being 10:31 P.M.

**Jozi Plut**  
**Deputy City Clerk**

Meeting audio-recorded and videotaped